

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

Docket: 26-2374

V.

ADMINISTRATIVE HEARING DECISION

I. INTRODUCTION

On April 16, 2026, [REDACTED], (“Appellant”) filed a FORMAL REQUEST FOR HEARING in response to [REDACTED] (“the Facility”) PRE-TRANSFER OR PRE-DISCHARGE 30 DAY NOTICE (“30-Day Notice”) issued March 26, 2026, which informed the Appellant of the Facility plans to discharge him as of April 24, 2026.

An administrative hearing was conducted on May 12, 2026, the hearing was held telephonically, as the Appellant declined the video option. The hearing was held in accordance with the Administrative Procedures Act R.I. Gen. Laws §42-35.1 and EOHHS Rhode Island Code of Regulations (“RICR”) 210-RICR-10-05-2. For the reasons discussed in more detail below, the appeal is granted.

II. JURISDICTION

In accordance with R.I. Gen. Laws § 42-7.2-6.1, EOHHS is the entity responsible for publicly funded health and human services programs administered by the agencies operating under the EOHHS umbrella, including the appeal entity for transfers and discharges from licensed nursing facilities and assisted living residences for all payers.

III. ISSUES

The issue is whether or not the Facility’s discharge of the Appellant is in compliance with Federal and State rules and regulations to allow this involuntary discharge. .



IV. STANDARD OF PROOF

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. (2 Richard J. Pierce, Administrative Law Treaties § 10.7 (2002) & see *Lyons v. Rhode Island Pub. Employees Council* 94, 559 A.2d 130, 134 (R.I. 1989) (preponderance standard is the “normal” standard in civil cases)). This means that for each element to be proven, the factfinder must believe that the facts asserted by the proponent are more probably true than false. (*Id.*). When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. (*Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006))

V. PARTIES AND EXHIBITS

The Facility was represented by Administrator [REDACTED] and Business Officer [REDACTED]. The following was submitted by the Facility and marked as evidence: exhibit 1 30-Day Notice and exhibit 2 Facility bill dated March 25, 2026.

The Appellant appeared and testified on their own behalf and presented Ombudsman Beth Mantia as their witness. The following was marked as Appellant evidence exhibit A Request for Hearing form and exhibit B printout an AI overview of 216-RICR-40-10-2.

VI. RELEVANT LAW/REGULATIONS

The Code of Federal Regulations (“CFR”) 42 CFR 483.15(c), sets forth transfer and discharge requirements in five sections:

- 1) *Facility requirements*: a facility must permit each resident to remain in the facility, and not transfer or discharge for six reasons, one of which is the resident has failed, after reasonable and appropriate notice, to pay for (or to have paid under Medicare or

Medicaid) a stay at the facility. Non-payment applies if the resident does not submit the necessary paperwork for third party payment or after the third party, including Medicare or Medicaid, denies the claim and the resident refuses to pay for his or her stay. For a resident who becomes eligible for Medicaid after admission to a facility, the facility may charge a resident only allowable charges under Medicaid.

- 2) *Documentation*: When a facility transfers or discharges a resident for any of the reasons under this statute they must ensure that the transfer or discharge is documented in the resident's medical record and appropriate information is communicated to the receiving health care institution or provider. All necessary information, including a copy of the resident's discharge summary, and any other documentation, as applicable, to ensure a safe and effective transition of care.
- 3) *Notice before transfer*: Before a facility transfers or discharges a resident the facility *must*
 - 1) Notify the resident and the resident's representative of the transfer or discharge and the reasons for the move in writing and in a language and manner they understand.
 - 2) The facility *must* send a copy of the notice to a representative of the Office of the State Long-Term Care Ombudsman.
 - 3) Record the reasons for the transfer or discharge in the resident's medical record and include in the notice the items described in paragraph (c)(5).
- 4) *Timing of the notice*: Except in certain health and safety situations, the notice of transfer or discharge required under this section *must* be made by the facility at least 30 days before the resident is transferred or discharged.
- 5) *Contents of the Notice*: The written notice *must* including the following
 - 1) the reason for the transfer or discharge;
 - 2) the effective date of transfer or discharge;
 - 3) the location to

which the resident is transfer or discharged; 4) a statement of the residents appeal rights, including the name, address (mailing and email), and telephone number of the entity which receives such requests; and information on how to obtain an appeal form and assistance in completing the form and submitting the appeal hearing request; 5) The name, address (mailing and email) and telephone number of the Ombudsman office, and two additional requirements for resident with intellectual and developmental disabilities or related disabilities.

Also mirrored in the State regulations (210-RICR-50-00-7), both procedural and substantive requirements, that both licensed nursing facilities and assisted living residences must take to involuntarily discharge a resident.

. **VII. FINDINGS OF FACTS**

1. The Appellant entered this nursing Facility on July 1, 2025, Medicaid paid in full for his stay from his entry date until November 30, 2025.

2. In February of 2026 a staff member informed him in the hallway of an outstanding bill of about \$2,000.00.

3. The Facility has refused at least three attempts by the Appellant to make a payment arrangement; he has not paid anything to the Facility to date.

4. The Facility issued the Appellant a bill on March 25, 2026, which informed as of December 1, 2025, he was responsible to pay a co-pay of, January 2026, \$973.00 and from February 2026 and each subsequent month \$2,173.00. The outstanding balance at that time was \$8,404.00.

5. On March 26, 2026, the Facility issued the 30-day Notice to the Appellant for failure to pay.

6. The following fields were left blank on the 30-day Notice: location to which resident is transferred or discharged, notice given to Resident date, notice given to Ombudsman date and notice given to clinical record date.

7. The Facility indicated on the 30-day Notice that the resident agreed with their actions.

8. On April 16, 2026, the EHO received a request for a hearing, signed by the Ombudsman, on behalf of the resident.

9. The appeal was filed because the Facility refused a payment plan the Ombudsman was not notified of the 30-day Notice.

10. The EHO accepted the Appellant's hearing request, and the matter was scheduled for May 12, 2026.

11. The Appellant seeks to remain at the facility until he has an apartment, he offered at hearing to pay \$400.00 per month.

12. The Facility testified the Appellant currently owes \$10,577.00 and they stand by the 30-day Notice issued to the Appellant.

VIII. DISCUSSION

It is noted the regulations provided by the Appellant were for that of Assisted Living Residences not nursing facilities and therefore did not apply in this matter. According to the rules for nursing facilities, there are five basic requirements that a Facility must adhere to in the process to involuntary discharge a resident: facility requirements, documentation, notice before transfer, timing of the notice and contents of the notice.

The Facility is required to allow a resident to stay at the Facility and when discharging must meet one of the requirements as outlined in 42 CFR 483.15(C)(1)(i)(A-F). The Facility

maintains that the Appellant after reasonable and appropriate notice has failed to pay. This is a valid discharge reason according to the Federal statute, but what needs to be determined is if their claims are supported by evidence. The parties agree that the Appellant has failed to pay and owes the Facility well over \$10,000.00, that was not in dispute. The Appellant did dispute he was provided with reasonable and appropriate notice to pay. The Appellant received the first and only bill from the Facility, issued just one day prior to that of the 30-Day Notice. This gave the Appellant no time to rectify this issue prior to their decision to discharge him for non-payment. The bill issued was for a total of the previous three and a half months owed, then the Facility demanded payment in full and refused to accept his offer of a payment plan. The evidence does not support that the Appellant was given reasonable, nor appropriate notice to pay.

The record was void of any documentation in the Appellant's medical record or a discharge summary to the receiving provider to ensure a safe and effective transition of care, as required by this statute. The Facility did provide the Appellant notice 30 days prior to the transfer date, but they failed to send the 30-Day Notice to the Ombudsman and failed to record the reasons for the discharge in the Appellant's medical record.

The 30-Day Notice did include the discharge reason, the effective date and although not on the notice as required, the parties agreed that the resident rights and appeal rights were given with the notice. The Facility failed to include the discharge location and the name, address and telephone number of the Ombudsman's office on the notice.

The Appellant is required to pay for his stay at the Facility, this decision in no way negates him of that obligation. The Facility does have the right to discharge Appellant's that do not do so, providing it is done in accordance with Federal and State regulations.

IX. CONCLUSION OF LAW

After reviewing the administrative record, I conclude, the evidence does not support that the Facility complied with the following in accordance with the regulations of involuntary discharges: facility requirements, documentation requirements, notice before transfer requirements and the contents of the notice requirements.

Therefore, the Facility's actions were not in compliance with Federal and State rules and regulations.

X. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, and testimony it is found that a final order be entered that there are not sufficient grounds to involuntary discharge the Appellant at this time.

APPEAL GRANTED

/s/Holly Young | Appeals Officer | Executive Office of Health and Human Services

NOTICE OF APPELLATE RIGHTS

This decision is a final order under R.I.G.L. § 42-35-12. Under R.I.G.L. § 42-35-15, this Order may be appealed to court within thirty (30) days of the mailing of this decision. Such appeal, if taken, must be completed by filing a complaint in court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of eighteen (18) and/or appeals of a DCYF action may need to be filed in Providence Family Court. If you have any questions about which court a complaint for appeal should be made, you should seek the advice of an attorney, Rhode Island Legal Services, or the clerk of the court where you wish to file your appeal. The courts' contact information can be found on the judiciary's website (<https://www.courts.ri.gov>). Copies of the appeal must be served upon all parties in your case within ten (10) days of the filing of your appeal.

If you exercise any of these appellate rights, please inform the EOHHS appeals office of this so we can prepare a copy of the record for the court. You can contact the Appeals Office at OHHS.AppealsOffice@ohhs.ri.gov, 401.462.2132 (Phone), 401.462.0458 (Fax), or at 3 West Road, Virks Building, Cranston, RI 02908.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]; Beth Mantia, c/o Alliance for Better Long Term Care, 422 Post Road, Suite 204, Warwick, RI 02888 and via email to beth@alliancebltc.org; and to [REDACTED] and via email to [REDACTED].

On this 19th day of May, 2026.

